

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of )

Policies and Rules Regarding )  
Minority and Female Ownership of ) MM Docket Nos. 94-149  
Mass Media Facilities ) and 91-140

RECEIVED

APR 12 1995

COMMENTS OF CITIZEN AND TAXPAYER

EDWIN COLEMAN

535 CHIPPEWA CIR

KNOXVILLE, TN 37919-7619

FCC MAIL ROOM

DOCKET FILE COPY ORIGINAL

IN OPPOSITION TO NEWLY-PROPOSED RACIAL AND SEXUAL  
DISCRIMINATION MEASURES THAT WOULD DIMINISH  
OPPORTUNITIES TO ENTER THE MASS MEDIA INDUSTRY.

By asking the public to suggest new minority preferences, the FCC is unwittingly admitting that its current policy has clearly failed to increase minority ownership of radio, TV, and cable systems.

Indeed, the biggest tax breaks in the current policy do not go to undercapitalized minority investors but to some of the wealthiest people in America.

Worse, Section 1071 is the only provision of the tax code that allows tax benefits because of an individual's race.

Supreme Court Justice Clarence Thomas argued in Holder V. Hall that crude racial classifications "should be repugnant to any nation that strives for the ideal of a colorblind Constitution."

Despite the failure of the FCC's minority preference tax breaks already in place, despite the unconstitutionality of the FCC and those preferences, and despite the American public's desire, expressed in last November's elections, to end minority preferences, the FCC now asks the public to suggest new reverse descrimination policies that go well beyond tax breaks.

As a citizen and a taxpayer, I urge the FCC to end its quest for more ways to unfairly discriminate against some Americans at the expense of others and realize it has outlived its usefulness.

Respectfully Submitted,

No. of Copies rec'd 0

List A B C D E

*Dr. E. T. Coleman*  
EDWIN COLEMAN

Dr Edwin T Coleman  
535 Chippewa Cir  
Knoxville TN 37919-7619

April 8, 1995  
(date)

# The Foolish FCC Is Obstacle to Colorblind

**W**ith the recent passage of HR 831, Congressman Bill Archer and the entire House of Representatives took a major step toward actually achieving a colorblind federal government. What a novel thought — government treating people equally without concern for the color of their skin. Something amazing really must have happened last November.

If passed by the Senate and signed into law, HR 831 will repeal a section of the Internal Revenue Code that, until recently, was rather obscure. Section 1071 authorizes the Federal Communications Commission to certify that certain sales of radio or television stations, or cable systems, are "necessary or appropriate" to further FCC policies, allowing the seller to delay or avoid paying taxes on the gain.

When first enacted, the law had nothing to do with race, but in 1978, the Carter administration's FCC announced a policy designed "to increas[e] significantly minority ownership of broadcast facilities." The FCC policy change allowed tax certificates to be given to broadcasters who sell to minorities.

Seventeen years later, we can say the policy is not working. Minority ownership of broadcast licenses was 0.5 percent in 1978, peaked at 3 percent in the mid-1980s, but has declined slightly to 2.9 percent today. As measured by its stated objective, the FCC's policies have been totally ineffective for almost 10 years, and probably were ineffective before then. A much more likely explanation for the gains in minority ownership during the first part of the 1980s was the



**J. A.  
PARKER**

■ J. A. Parker, an activist and entrepreneur in Philadelphia and Washington, D.C., for the past 40 years, is president of the Abraham Lincoln Foundation for Public Policy Research, the nation's largest organization promoting conservative principles in the black community.

Reagan tax cuts and the economic expansion that increased minority ownership of businesses of all kinds.

UNDER THE FCC's misguided policy, the biggest tax breaks do not go to undercapitalized minority investors but to some of the wealthiest people in America. For example, last month, Viacom International announced plans to sell its vast cable system for \$2.3 billion to a group nominally controlled by a black lawyer (who crafted the FCC's minority-preference policy in the 1970s). The black lawyer is putting in only \$1 million of his own money, but that will buy Viacom a \$400-million tax break, unless the repeal legislation becomes law.

But the question of abuse in this or any other individual case is secondary. According to the Ways and Means Committee, Section 1071 is the only provision in the Internal Revenue Code that allows tax benefits because of an individual's race. Crude racial classifications, Justice Clarence Thomas so eloquently said in *Holder v. Hall*, "should be repugnant to any nation that strives for the ideal of a colorblind Constitution." Swift repeal of Section 1071 would be a wonderful first step for the new Congress to take toward the vision of a colorblind government.

With this beginning, the rest of the temple erected to "affirmative action" should be taken down, brick by brick. Few now remember that the term "affirmative action" originally meant colorblind treatment. In March, 1961, President Kennedy issued Executive Order 10925 governing federal contracts, stipulating: "The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated, during employment, without regard to their race, creed, color, or national origin." That kind of colorblind vision needs to be restored today.

Not sharing that vision, the FCC is continuing to march on with the promise of more of the same. Its Notice of Proposed Rulemaking in "Policies and Rules Regarding Minority and Female Ownership of Mass Media Facilities," now open for public comment, looks for new ways to prefer some Americans over others on the basis of race and

*"With this beginning, the rest of the temple erected to 'affirmative action' should be taken down, brick by brick."*

gender. Admitting, perhaps unwittingly, that its past policies haven't worked, the FCC now actually asks the public to suggest new minority preferences — going well beyond tax breaks — that somehow might work. Neither the failure of past preferences nor the overwhelming desire of the American

people for a colorblind government should count for anything.

IN THE late 1980s, a show called "Left, Right, and Center" featured an FM radio in Memphis. The FCC's policies. The Commission hearing examining the license, using the same criteria as its own, never seemed to have a doctrine against it.

The FCC didn't change its mind. With the new Congress, the FCC is now actually asking the public to suggest new minority preferences — going well beyond tax breaks — that somehow might work. Neither the failure of past preferences nor the overwhelming desire of the American